

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15520 OF 2016

ORDER:

This criminal petition, under Section 482 of Criminal procedure Code, 1973 (for short, 'Cr.P.C.') is filed to quash the proceedings in Crime No.65 of 2016 of Women Police station, Khammam, registered against the petitioners for the offences punishable under Sections 498-A, 420 and 506 of Indian Penal Code, 1860 (for short 'IPC') read with Sections 3 and 4 of Dowry Prohibition Act, 1961.

Undisputedly, the marriage between the petitioner and the second respondent was performed on 22.11.2015 and at the time of marriage, the parents of the second respondent paid Rs.15,00,000/- towards dowry, besides presentation of 15 grams of gold bracelet and gold ring etc., to the petitioners.

By the date of marriage, the first petitioner was suffering from heart disease, suppressing the same, performed his marriage with the second respondent. When it was questioned, the petitioner, her in-laws demanded Rs.15,00,000/- towards additional dowry and subjected her to cruelty and thus, the allegations made in the complaint would constitute an offence on the face value of it, punishable under Sections 498-A and 420 IPC since the marriage was performed without disclosing the ailment of the first petitioner i.e. heart disease and subjecting the de facto complainant to cruelty for her failure to meet the illegal demand of additional dowry.

It is the contention of the petitioners before this court is that the present complaint was lodged by the second respondent

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is a counter blast in FC OP No.23 of 2016 pending before the Judge, Family Court, filed on 08.08.2016, as per the date mentioned on the petition. But this complaint was lodged on 17.09.2016. No doubt, the present complaint was filed subsequently. But the first petitioner did not deny undergoing bypass surgery in the month of May, 2016, for the heart ailment and non-disclosure of ailment before the marriage is a question of fact to be decided during trial only, not at this stage.

Hence, I find no ground to quash the proceedings in Cr.No.65 of 2016 of Women Police Station, Khammam.

However, Sri M.Jagadish Kumar, learned counsel for the petitioners, requested the court to direct the police to follow the procedure prescribed under Section 41-A Cr.P.C. and guidelines laid down by the Apex Court in **ARNESH KUMAR V. STATE OF BIHAR**¹.

Acceding to the request, the Police, Women Police Station, Khammam, are directed to follow the procedure contemplated under Section 41-A Cr.P.C. and guidelines laid down by the Apex Court in **ARNESH KUMAR** referred to supra.

With the above direction, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 01.11.2016
BV

¹ 2014 (8) SCC 273